IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3688 of 2007()

CRIME 385/07 OF IRINJALAKUDA POLICE STATION

PETITIONERS/ACCUSED NOS 1 TO 4

---

1. SHAHUL HAMEED, S/O.ABDUL JABBAR,
   POOVATHUM KADAVIL HOUSE, VELLANGALLUR,
   THRISSUR DISTRICT.

2. JEEVAN, S/O.SIVADAS, ERANAPPALLY HOUSE,
   VELLANGALLUR P.O., VADAKUMKARA VILLAGE,
   THRISSUR DISTRICT.

3. RATHEESH, S/O.RAJAN, VETTIYATTIL HOUSE,
   VELLANGALLUR P.O., VADAKUMKARA VILLAGE,
   THRISSUR DISTRICT.

4. SABU, S/O.LOHITHAKSHAN, MULLAPPALLY
   HOUSE, VELLANKALLUR P.O., VADAKUMKARA VILLAGE,
   THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
SUB INSPECTOR OF POLICE, IRINJALAKUDA
POLICE STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3688 OF 2007

Dated this the 19th day of June, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 4. Altogether, there are six accused persons. The de facto complainant is the driver of a bus. The petitioners face allegations, inter alia, under Sec.326 of the IPC. There was a dispute regarding parking of the vehicle. The crux of the allegations is that the de facto complainant – the driver of the vehicle, was attacked by the accused persons who were allegedly members of an unlawful assembly. The 1st accused allegedly attacked the driver with a weapon - " " resulting in fracture of the nasal bone of the de facto complainant. The other accused are alleged to be the members of the unlawful assembly who shared the common object of the unlawful assembly and participated in the

incident. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest. They pray that the directions under Sec.438 of the Cr.P.C. may be issued in their favour.

2. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the application for anticipatory bail of all the accused persons, particularly that of the 1st accused. It is the first accused who is alleged to have wielded the weapon, namely, “ ” and caused injuries to the de facto complainant. At any rate, the 1st accused may not be granted anticipatory bail. Appropriate conditions may be imposed if the Court is pleased to grant anticipatory bail to the other accused, submits the learned Public Prosecutor.

3. I have considered all the relevant inputs. Only the 1st accused is alleged to have used the weapon to cause the injuries. I do, in these circumstances, come to the conclusion that the application for anticipatory bail in so far as it relates to the 1st accused cannot be allowed. Anticipatory bail can be granted to

the petitioners/accused 2 to 4 subject to appropriate conditions.

4. In the result, this petition is allowed in part. The petition is dismissed in so far as it relates to the prayer of the 1st accused for anticipatory bail. Following directions are issued in favour of accused 2 to 4 under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 26/6/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 27/6/07 and thereafter on all Mondays and Fridays between 10 a.m. and 11 a.m. for a period of 45 days.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law

as if those directions were not issued at all;

(iv) If the petitioners were arrested prior to his surrender on 26/6/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 26/6/07.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge